

Commission Regulation (EC) No 967/2006 of 29 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 318/2006 as regards sugar production in excess of the quota

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector⁽¹⁾, and in particular Articles 13(2), 15(2) and 40(1)(c) and (2)(d) thereof,

Whereas:

- (1) Under Article 12 of Regulation (EC) No 318/2006, production in excess of the quota may be used for the processing of certain products, carried forward to the next marketing year or used for the specific supply arrangements for the outermost regions, in accordance with Council Regulation (EC) No 247/2006 laying down specific measures for agriculture in the outermost regions of the Union⁽²⁾, or exported within certain limits.
- (2) Under Article 15 of Regulation (EC) No 318/2006, a surplus amount is to be levied on quantities of surplus sugar, surplus isoglucose and surplus inulin syrup not carried forward or exported, or used for the specific supply arrangements for the outermost regions, and on industrial sugar, industrial isoglucose and industrial inulin syrup for which no proof has been supplied, by a date to be determined, that it has been processed into one of the products referred to in Article 13(2) of that Regulation; and on quantities withdrawn from the market in accordance with Article 19 of that Regulation and for which the obligations provided for in Article 19(3) thereof are not met.
- (3) The levy should be fixed at a high level in order to avoid the accumulation of quantities produced in excess of the quota and likely to disrupt the market. A fixed amount, equal to the level of full import duties on white sugar, would appear appropriate to this end.
- (4) Certain provisions should be laid down for cases where sugar, isoglucose or inulin syrup in excess of the quota may be destroyed and/or become unrecoverable, and for cases of *force majeure* making it impossible to use the products as provided for in Article 12 of Regulation (EC) No 318/2006.
- (5) Article 17 of Regulation (EC) No 318/2006 provides for approval of undertakings processing sugar, isoglucose or inulin syrup into one of the industrial products referred to in Article 13(2) of that Regulation. The content of the application for approval which processors must submit to the competent authorities of the Member States should be

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specified. The commitments these undertakings must make in return for approval must be laid down, in particular the obligation to keep an up-to-date record of the quantities of raw materials entering, being processed in and leaving the undertaking in the form of processed products. To ensure that the arrangements for industrial sugar, industrial isoglucose and industrial inulin syrup operate correctly, provision must be made for the imposition of penalties on processors who do not meet their obligations or their commitments.

- (6) Conditions should be laid down for the use of the industrial sugar, industrial isoglucose and industrial inulin syrup referred in Article 12(a) of Regulation (EC) No 318/2006 as regards, in particular, the contracts for deliveries of raw materials between manufacturers and processors, and the list of products referred to in that point should be drawn up in accordance with Article 13(2) of that Regulation, taking into account the experience gained as regards supplies of sugar to the chemicals and pharmaceutical industries.
- (7) To make the control system more effective, the use of industrial sugar, industrial isoglucose and industrial inulin syrup should be restricted to a direct sale between an approved manufacturer and an approved processor.
- (8) To facilitate the use of industrial sugar and access to this raw material by potential users, manufacturers should be allowed to replace a quantity of their industrial sugar with sugar produced by another manufacturer established, if necessary, in another Member State. However, this possibility should only be granted on condition that additional checks on the quantities delivered and actually used by industry are carried out correctly. The decision on whether to grant this possibility must be left to the discretion of the competent authorities of the Member States concerned.
- (9) To ensure that the sugar, isoglucose or inulin syrup is properly used, financial penalties must be laid down for processors at a dissuasive level to avoid any risk of the raw materials being used for other purposes.
- (10) Under Article 14(1) of Regulation (EC) No 318/2006, each undertaking may decide to carry forward all or part of its production in excess of its sugar quota, its isoglucose quota or its inulin syrup quota to be treated as part of the next marketing year's production. Since a sugar-producing undertaking may carry forward all of its production in excess of the quota, the beet growers concerned should be closely associated with the decision to carry forward by means of an agreement within the trade referred to in Article 6 of that Regulation.
- (11) Isoglucose is produced on an ongoing basis throughout the year and is difficult to store. It should therefore be laid down that the decision to carry forward may be taken *a posteriori* by the isoglucose-producing undertakings.
- (12) For the purposes of monitoring quantities and destinations, it should be laid down that the sugar used in the context of the specific supply arrangements for the outermost regions must be the object of a direct sale from the manufacturer to the undertaking in the outermost regions, in accordance with the rules laid down in Commission Regulation (EC) No 793/2006 of 12 April 2006 laying down certain detailed rules

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for applying Council Regulation (EC) 247/2006 laying down specific measures for agriculture in the outermost regions of the Union⁽³⁾. The proper application of the two regimes requires close cooperation between the authorities of the Member State in which the sugar is produced who are responsible for managing surplus sugar and the authorities in the outermost regions who are responsible for managing the specific supply arrangements.

- (13) Export must be carried out under an export licence without refund issued in accordance with Article 23 of Regulation (EC) No 318/2006 and, for sugar, under quotas to be opened by the Commission taking into account the Community's commitments under the World Trade Organisation. For administrative reasons, the export documents provided for in Commission Regulation (EC) No 1291/2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products⁽⁴⁾ should be used as proof of export. Member States should carry out physical checks in accordance with the rules laid down in Commission Regulation (EC) No 2090/2002 laying down detailed rules for applying Council Regulation (EEC) No 386/90 as regards physical checks carried out when agricultural products qualifying for refunds are exported⁽⁵⁾.
- (14) For the sake of transparency and legal clarity, Commission Regulations (EEC) No 2670/81 laying down detailed implementing rules in respect of sugar production in excess of the quota⁽⁶⁾, (EEC) No 65/82 laying down detailed rules for carrying forward sugar to the following marketing year⁽⁷⁾ and (EC) No 1265/2001 laying down detailed rules for the application of Council Regulation (EC) No 1260/2001 as regards granting the production refund on certain sugar products used in the chemical industry⁽⁸⁾ should be repealed with effect from 1 July 2006.
- (15) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

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- (1) OJ L 58, 28.2.2006, p. 1.
- (2) OJ L 42, 14.2.2006, p. 1. Regulation as amended by Regulation (EC) No 318/2006.
- (3) OJ L 145, 31.5.2006, p. 1. Regulation as amended by Regulation (EC) No 852/2006 (OJ L 158, 10.6.2006, p. 9).
- (4) OJ L 152, 24.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 410/2006 (OJ L 71, 10.3.2006, p. 7).
- (5) OJ L 322, 27.11.2002, p. 4. Regulation as last amended by Regulation (EC) No 1454/2004 (OJ L 269, 17.8.2004, p. 9).
- (6) OJ L 262, 16.9.1981, p. 14. Regulation as last amended by Regulation (EC) No 95/2002 (OJ L 17, 19.1.2002, p. 37).
- (7) OJ L 9, 14.1.1982, p. 14. Regulation as last amended by Regulation (EC) No 2223/2000 (OJ L 253, 7.10.2000, p. 15).
- (8) OJ L 178, 30.6.2001, p. 63. Regulation as amended by Regulation (EC) No 493/2006 (OJ L 89, 28.3.2006, p. 11).

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